

# **DURABLE POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENT:

That I, \_\_\_\_\_, a resident of and domiciled in \_\_\_\_\_ County, \_\_\_\_\_ (State), as Principal, have this day made, and do hereby constitute and appoint, \_\_\_\_\_ (Agent), as my true and lawful attorney-in-fact, who is individually referred to in this instrument as my "Agent" and who individually shall exercise any and all of the powers set forth hereinafter.

If \_\_\_\_\_ (Agent Name) is not reasonably available or is unable or unwilling for any reason to act as my Agent, then I appoint the following persons (each to act alone and successively, in the order named) to serve in that capacity:

## **SUCCESSOR AGENT.**

Each successor Agent designated shall be vested with the same power and duties as if originally named as my Agent.

## **ARTICLE I**

My Agent is authorized in my Agent's sole and absolute discretion from time to time and at any time with respect to any and all of my property and interests in property, real, personal, tangible and intangible, as follows:

### **A. Power to Buy.**

To buy every kind of property, real, personal, tangible and intangible, upon such terms and conditions as my Agent shall deem appropriate; to obtain options with respect to such purchases; to arrange for appropriate disposition, use, safekeeping and/or insuring of any such property purchased by my Agent;

### **B. Power to Sell.**

To sell, convey and transfer title to any and every kind of property that I may own now or in the future, including, without being limited to, real property, including "homestead" property, personal, tangible and intangible property, and including, without being limited to, contingent and expectant interests, marital rights and any rights of survivorship incident to joint tenancy or tenancy by the entirety, upon such terms and conditions and security as my Agent shall deem appropriate and to grant options relative thereto;

### **C. Distribute to Trust.**

To transfer and distribute any assets in my individual name to the then serving Trustees of any Trust created by me;

### **D. Power to Manage and Encumber Real Property.**

To lease, sublease, and release; to eject and remove tenants from said property and to recover possession thereof by lawful means; to contest tax assessments; to subdivide, develop, dedicate to public use and grant easements, with or without compensation; to demolish or repair; to mortgage or otherwise encumber; with all of the above powers to refer to real property now or hereafter owned by me, or acquired by my Agent;

### **E. Power with Respect to Bank Accounts.**

To establish accounts of all kinds, including checking and savings, for me with financial institutions of any kind, including, but not limited to, banks and thrift institutions, to modify, terminate, make deposits to and write checks on or make withdrawals from and grant security interests in all accounts in my name or with respect to which I am an authorized signatory (except accounts held by me in a fiduciary capacity), whether or not any such account was established by me, or for me by my Agent; to negotiate, endorse, or transfer any checks or other instruments with respect to any such accounts; to contract for any services rendered by any bank or financial institution;

### **F. Power with Respect to Safe-Deposit Boxes.**

To contract with any institution for the maintenance of a safe-deposit box in my name; to have access to all safe-deposit boxes in my name or with respect to which I am an authorized signatory, whether or not the contract for such safe-deposit box was executed by me (either alone or jointly with others) or by my Agent in my name; to add to and remove from the contents of such safe-deposit box and to terminate any and all contracts for such boxes;

### **G. Power to Invest.**

To invest and reinvest all or any part of my property in any property or interests (including undivided interests) in property, real, personal, tangible and intangible, wherever located, including, without being limited to commodities contracts of all kinds, securities of all kinds, bonds, debentures, notes (secured or unsecured); stocks of corporations regardless of class; interests in limited partnerships, real estate or any interest in real estate, whether or not productive at the time of investment; interests in trusts, investment trusts, whether open and/or closed fund types; and participation in common, collective or pooled trusts funds or annuity contracts without being limited by any statute or rule of law concerning investments by fiduciaries; to sell (including short sales) and terminate any investments whether made by me or my Agent; to establish, utilize and terminate savings and money market accounts with financial institutions of all kinds;

### **H. Power with Respect to Legal and Other Actions.**

To institute, supervise, prosecute, defend, intervene in, abandon, compromise, arbitrate, settle, dismiss, and appeal from any and all legal, equitable, judicial or administrative hearings, action, suits, proceedings, attachments, arrests or distresses, involving me in any way, including, but not limited to, claims by or against me arising out of property damages or personal injuries suffered by, or caused by,

me under such circumstances that the loss resulting therefrom will or may fall on me, and otherwise engage in litigation involving me, my property or any interest of mine, including any property or interest with any person for whom I have or may have any responsibility;

**I. Power to Provide for Principal's Support.**

To do all acts necessary for maintaining my customary standard of living, to provide living quarters by purchase, lease or other arrangement, or by payment of the operating costs of my existing living quarters, including interest, amortization payments, maintenance and assessments, repairs and taxes; to provide domestic help for the operation of my household; to provide clothing, transportation, medicine, food and incidentals; and, if necessary, to make all necessary arrangements, contractual or otherwise, for me at any hospital, hospice, nursing home, convalescent home, care facility or similar establishment; and, if in the judgment of my Agent, I will never be able to return to my living quarters from a hospital, hospice, nursing home, convalescent home, care facility or similar establishment, to lease, sublease or assign my interests as lessee in any lease or protect or sell or otherwise dispose of my living quarters (investing the proceeds of any such sale as my Agent deems appropriate) for such price and upon such terms, conditions and security, if any, as my Agent shall deem appropriate; and to store and safeguard or sell for such price and upon such terms, conditions and security, if any, as my Agent shall deem appropriate or otherwise dispose of any items of tangible personal property remaining in my living quarters which my Agent believes I will never need again (and pay all costs thereof);

**J. Power with Respect to Employment Benefits.**

My Agent shall have the power to establish and contribute to one or more "individual retirement accounts" or other retirement plans or arrangements in my name. In connection with any pension, profit sharing or stock bonus plan, individual retirement account, § 403(b) annuity or account, § 457 plan, or any other retirement plan, arrangement or annuity in which I am a participant or of which I am a beneficiary (whether established by my Agent or otherwise) (each of which is hereinafter referred to as "such Plan"), my Agent shall have the following powers, in addition to all other applicable powers granted by this instrument: (1) to make contributions (including "rollover" contributions) or cause contributions to be made to such Plan with my funds or otherwise on my behalf; (2) to receive and endorse checks or other distributions to me from such Plan, or to arrange for the direct deposit of the same in any account in my name or in the name of any revocable "living" trust established by me; and (3) to elect a form of payment of benefits from such Plan, to withdraw benefits from such Plan, to make contributions to such Plan and to make, exercise, waive or consent to any and all elections and/or options that I may have regarding the contributions to, investments or administration, of, or distribution or form of benefits under, such Plan so long as such decisions do not result in a change of beneficiaries; to borrow money and purchase assets therefrom and sell assets thereto, if authorized by any such Plan. My Agent shall not have the power to make and change beneficiary designations;

**K. Power with Respect to Insurance.**

To obtain, extend, increase, or decrease insurance on my life or the life of anyone in whom I have an insurable interest, irrespective of whether or not I am the owner of such a policy or policies; to pay all insurance premiums; to select any options under such policies; to borrow against any such policy; to transfer ownership of such policy or policies to a third party for such purposes as creation of an irrevocable life insurance trust if my Agent deems it appropriate; to receive and make such disposition of the cash value upon termination of any such policy as my Agent shall deem appropriate; to purchase and/or maintain and pay all premiums for medical insurance covering me, and any person I am

obligated or may have assumed the obligation to support; to carry insurance of such kind and in such amounts as my Agent shall deem appropriate to protect my estate and my family against any hazard and to protect me and my estate from any liability and to pay the premiums therefore; to pursue any insurance claim of any kind and in any amounts as my Agent shall deem appropriate;

**L. Power with Respect to Annuity Contracts.**

To exercise my rights under any annuity contracts in which I might have an interest including but not limited to rights regarding annuitization; investments; allocations; additional contributions; assignment; withdrawal, surrender; and exchanges; to receive and endorse checks or other distributions to me from such annuity contracts; to receive and make such disposition of the cash value upon termination of any annuity contract as my Agent shall deem appropriate. My agent shall not have the power to change the designation of owner, contingent owner, beneficiary, contingent beneficiary, annuitant or joint annuitant of such annuity contracts or do any act which would result in such change;

**M. Power with Respect to Taxes.**

To represent me in all matters; to prepare, sign, and file federal, state and local income, gift and other tax returns of all kinds, including joint returns, FICA returns, payroll tax returns, claims for refunds, requests for extensions of time, petitions to the tax court or other courts regarding tax matters, and any and all other tax related documents; to pay taxes due, collect and make such disposition of refunds as my Agent shall deem appropriate, post bonds, receive confidential information and contest deficiencies determined by the Internal Revenue Service and/or any state and/or local taxing authority; to exercise any elections I may have under federal, state or local tax law; and generally to represent me or obtain professional representation for me in all matters and proceedings of all kinds for all periods between the years 1970 and 2050 before all officers of the Internal Revenue Service and state and local authorities including but not limited to forms 1040, 709, and 2848; to engage, compensate and discharge attorneys, accountants, and other tax and financial advisors and consultants to request or assist me in connection with any and all tax matters involving or in any way related to me or any property in which I have or may have any interest or responsibility.

**N. GRANT OF SPECIFIC AUTHORITY**

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

- \_\_\_\_\_ (a) To create an intervivos trust on my behalf, whether revocable or irrevocable, under which I am a beneficiary;
- \_\_\_\_\_ (b) To modify, amend, revoke or terminate a trust under which I am a beneficiary, and to create, amend or revoke trusts for the benefit of others on my behalf;
- \_\_\_\_\_ (c) Make gifts or contributions from my assets to any donee, all as may be in my best interests with respect to my income tax, estate tax or long-term care planning.
- \_\_\_\_\_ (d) Create or change rights of survivorship;
- \_\_\_\_\_ (e) Create or change a beneficiary designation;
- \_\_\_\_\_ (f) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; or

- \_\_\_\_\_ (g) Disclaim property and powers of appointment; or
- \_\_\_\_\_ (h) Create, amend, modify, or revoke any revocable or irrevocable trust agreement or document and transfer assets in which I have any interest, including but not limited to real property constituting my homestead or a homestead in which I have any interest, to an existing or newly created trust for estate, tax, long-term care or Medicaid planning purposes, including Qualified Income Trusts so I may be eligible for the Medicaid Institutional Care Program (ICP).

## **ARTICLE II**

For the purpose of inducing all persons, organizations, corporation and entities, including but not limited to any physician, hospital, bank, broker, custodian, insurer, lender, transfer agent, taxing authority, governmental agency, or party to act in accordance with the instructions of my Agent given in this instrument, I hereby represent, warrant and agree that:

A. If this instrument is revoked or amended for any reason, I, my estate, my heirs, successors and assigns will hold any person, organization, corporation or entity (hereinafter referred to in the aggregate as "Person") harmless from any loss suffered, or liability incurred by such Person in acting in accordance with the instructions of my Agent acting under this instrument prior to the receipt by such Person of actual notice of any such revocation or amendment.

B. The powers conferred on my Agent by this instrument may be exercised by my Agent alone and my Agent's signature or action under the authority granted in this instrument may be accepted by Persons as fully authorized by me and with the same force and effect as if I were personally present, competent, and acting on my own behalf. Consequently, all acts lawfully done by my Agent hereunder are done with my consent and shall have the same validity and effect as if I were personally present and personally exercised the powers myself, and shall inure to the benefit of and bind me and my heirs, assigns, and personal representatives.

C. No Person who acts in reliance upon any representations my Agent(s) may make as to: (a) the fact that my Agent's powers are then in effect; (b) the scope of my Agent's authority granted under this instrument; (c) my competency at the time this instrument is executed; (d) the fact that this instrument has not been revoked; or (e) the fact that my Agent continues to serve as my Agent shall incur any liability to me, my estate, my heirs or assigns for permitting my Agent to exercise such authority, nor shall any Person who deals with my Agent be responsible to determine or ensure the proper application of funds or property.

D. All Persons from whom my Agent may request information regarding me, my personal or financial affairs or any information which I am entitled to receive are hereby authorized to provide such information to my Agent without limitations and are released from any legal liability whatsoever to me, my estate, my heirs and assigns for complying with my Agent's requests.

## **ARTICLE III.**

The following Administrative Powers shall apply to this instrument:

### **A. Reimbursement of Agent.**

My Agent shall be entitled to reimbursement for all costs and expenses actually incurred and paid by my Agent on my behalf under any provisions of this instrument, and all costs and expenses incurred in

carrying out the provisions of this instrument; but my Agent shall not be entitled to compensation for services rendered.

**B. Employment of Persons.**

My Agent shall employ accountants, custodians, attorneys, and such other agents as said Agent deems advisable and to pay them compensation for their services.

**ARTICLE IV**

The following provisions shall apply to this instrument:

**A. Governing Law and Applicability to Foreign Jurisdiction.**

This instrument shall be governed by the laws of the State of \_\_\_\_\_ in all respects, including its validity, construction, interpretation and termination, and to the extent permitted by law shall be applicable to all property of mine, real, personal, tangible and intangible, wherever and in whatever state of the United States or foreign country the situs of such property is at any time located and whether such property is now owned by me or hereafter acquired by me or for me, by my Agent;

**B. Severability.**

If any part of any provisions of this instrument shall be invalid or unenforceable under applicable law, such part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of such provisions of the remaining provisions of this instrument;

**C. Waiver of Certain Fiduciary Responsibilities.**

My Agent and my Agent's heirs, successors, and assigns are hereby released and forever discharged from any and all liability upon any claim or demand of any nature whatsoever by me or my heirs and assigns arising out of the acts or omissions of my Agent, except for willful misconduct or gross negligence. My Agent shall have no responsibility to make my property productive of income, to increase the value of my estate or to diversify my investments. My Agent shall have no liability for entering into transactions authorized by this instrument with my Agent in my Agent's individual capacity so long as my Agent believes in good faith that such transactions are in my best interests or the best interests of my estate and those persons interested in my estate.

**ARTICLE V**

It is the Principal's intent as follows:

A. This instrument shall be construed as giving and granting unto my said attorney-in-fact full power and authority to do and perform all and every act whatsoever requisite and necessary to be done as fully to all intents and purposes as I might or could do if I were personally present, hereby ratifying and confirming all that my said attorney-in-fact shall lawfully do or cause by virtue of these present.

B. It is my intention in signing this instrument that I am signing a power of attorney giving my aforesaid named Agent power to act in my place and stead completely and unequivocally as if I, myself, were present to so act, and that this power of attorney shall in all respects be construed or considered

as general and not as specific in any manner.

C. This durable power of attorney is not terminated by subsequent incapacity of the principal. All of the powers and provisions of said Statute shall be in addition to the powers and provisions thereof and not in limitation thereof.

D. This power becomes effective immediately.

E. Any prior Durable Power of Attorney made prior to the date hereof is hereby revoked.

**IN WITNESS WHEREOF**, I have executed this Durable Power of Attorney on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Signed, sealed and delivered  
In the presence of:

\_\_\_\_\_  
Witness Signature  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Witness Signature  
Print Name: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Personally appeared before me, **NOTARY NAME**, known to me to be the person described in and who executed the foregoing instrument, who after first being placed under oath by me, swore and acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein expressed.

**NAME** is personally known to me, or if not, produced identification as set forth below.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC